

3. Any civil action filed in a state court over which a federal district court would have original jurisdiction may be removed. 28 U.S.C. § 1441(a). Plaintiffs have alleged personal injuries and past and future damages related to an automobile accident involving a 2010 Peterbilt 387 and a passenger vehicle that allegedly transpired on or about August 20, 2018. (Exhibit A, Plaintiffs' Petition, Count I, ¶ 4). Plaintiff Angelita Carano-King is seeking compensatory damages for “past, present, and future expenses for medical supplies, medicine, and the services of...health care providers” and “loss of income, diminution of earning capacity, and loss of household contributions.” (Exhibit A, Plaintiffs' Petition, Count I, ¶ 4). Plaintiff Gary King is seeking compensatory damages for “loss of affection, attention, services, support, comfort, consortium and companionship of Plaintiff Angelita” and the “reasonable value of nursing services provided to Plaintiff Angelita, medical expenses for Plaintiff Angelita, and loss of household contributions.” (Exhibit A, Plaintiffs' Petition, Count III, ¶ 3).

4. This case is removable to federal court because this Court has original subject matter jurisdiction on diversity grounds pursuant to 28 U.S.C. § 1332(a)(1) and (2) because complete diversity of citizenship exists between the parties and the amount in controversy is in excess of the federal courts' jurisdictional requirements. Accordingly, Defendants remove this entire action to the United States District Court for the Western District of Missouri pursuant to 28 U.S.C. §§ 1441 and 1446.

5. Plaintiffs are each citizens of Missouri at the time of the filing of this Notice of Removal and were citizens of Missouri at the time they filed their Petition.

6. There is complete diversity in this case. Defendant David J. Bogenschuetz was a citizen of Wisconsin at the time Plaintiffs filed their Petition and is a citizen of Wisconsin at the time of filing this Notice of Removal. Likewise, Defendant SCA, Inc. is a for-profit business that

is a citizen of Wisconsin, as verified by the Wisconsin Secretary of State, and whose principal place of business is located in Wisconsin at N9276 Ford Rd. Elkhart Lake, WI 53020-1437. (Exhibit B, *Wisconsin Online Business Filing*). Defendant SCA, Inc. was a citizen of Wisconsin at the time of the filing of Plaintiffs' Petition and at the time of the filing of this Notice of Removal.

7. The amount in controversy is in excess of \$75,000 based on the damages being claimed and/or demanded to date and based on the injury and damages allegations contained within Plaintiffs' Petition. More specifically, Plaintiffs have alleged in their Petition as follows:

- a. That Plaintiff Angelita Carano-King allegedly suffered injuries to her face, head, left eye, back, neck, knees, and right elbow. She alleges damages for past, present, and future medical supplies, medicine, the services of physicians, nurses, hospitals, pharmacists, physical therapists, and other health care providers, and related medical expenses. She also is claiming damages for loss of income, diminution of earning capacity, and loss of household contributions. (Exhibit A, Plaintiffs' Petition, Count I, ¶ 4). Plaintiff Gary King alleges similar damages, stating that he suffered a loss of affection, attention, services, support, comfort, consortium, and companionship of Plaintiff Angelita Carano-King. He is also claiming damages for the medical expenses and nursing services required for the care of Plaintiff Angelita Carano-King, and a loss of household contributions. (Exhibit A, Plaintiffs' Petition, Count III, ¶ 3).
- b. Plaintiffs made a settlement demand through their counsel Brandon C. Potter to resolve all claims arising out of this accident against Defendants on or about February 5, 2019 in the amount of \$650,000.00 (Defendants will provide a copy of this demand upon the request of the Court to the extent needed or requested).
- c. Plaintiffs also contend that they will incur future medical expenses for Plaintiff Angelita Carano-King's injuries.

8. While Defendants deny liability and damages, based on the allegations contained in Plaintiffs' Petition and the amount of past and future damages being asserted by Plaintiffs, the amount in controversy is well in excess of \$75,000.00 thereby satisfying the jurisdictional requirements of 28 U.S.C. § 1332(a). See *Schudy v. Gordon*, 2006 WL 859279, 1 (W.D. Mo. 2006) (holding that defendants may look to evidence of "Plaintiffs' conduct and representations,

including settlement offers by the plaintiff exceeding the jurisdictional amount...or an extensive list of serious and disabling injuries suffered by the plaintiff,” to prove the jurisdictional amount).

9. Defendants have demonstrated that the amount in controversy exceeds the jurisdictional threshold of \$75,000 by a preponderance of the evidence available to Defendants at the time of removal. See *Bell v. Hershey Co.*, 557 F.3d 953, 956 (8th Cir. 2009).

10. Pursuant to 28 U.S.C. § 1446(a), copies of all other process, pleadings and orders served upon Defendants or contained within the court file and available to Defendants at the time of this removal are attached as Exhibit C. These materials include Greene County, Missouri’s Docket Sheet, Plaintiffs’ Petition for Damages, Summons Issued for SCA, Inc., Notice of Service for SCA, Inc., Summons Issued for David J. Bogenschuetz, and Notice of Service for David J. Bogenschuetz. Plaintiffs’ Petition has already been marked as Exhibit A and is thereby incorporated herein by reference.

11. Pursuant to the provisions of 28 U.S.C. § 1441(a), the United States District Court for the Western District of Missouri Southern Division (Springfield, Missouri) is the federal district court for the district embracing the place where the state court suit is pending.

12. Written notice of the filing of this Notice of Removal has been served on Plaintiffs’ counsel and a copy has been filed contemporaneously with the Clerk of the Greene County, Missouri Circuit Court providing notice of this removal.

DEMAND FOR JURY TRIAL

Defendants SCA, Inc. and David J. Bogenschuetz hereby demand a trial by jury on all issues in this case for which they have a right to have decided by a jury.

Respectfully submitted,

MATTEUZZI & BROOKER, P.C.

/s/ Matthew J. Brooker

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was electronically filed on this 9th day of October, 2019 and the following individuals were notified via PACER/ECF:

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